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October 28, 2002

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

Marlene H. Dortch, Esquire

Secretary

Federal Communications Commission

445 12th Street, S.W., Room TW-B204

Washington, D.C. 20554

Rc: Reply Comments of Pappas Telecasting of America
MM Docket No. 01-44
RM-10022
Dcrbv. Kansas

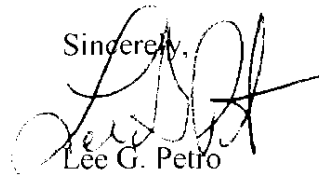
Dear Ms. Dortch:

Transmitted herewith, on behalf of Pappas Telecasting of America, are an original and four copies of its Reply Comments.

Please date stamp the extra enclosed copy and return it to the undersigned

Should any questions arise concerning this matter, please communicate with the undersigned.

Sincerely,



Lee G. Petro

Counsel for Pappas Telecasting of America

Enclosures

cc: As shown on Certificate of Service (with enclosure)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 28 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re:

Amendment of Section 73622(b),
Table of Allotments
Digital Television Broadcast Stations
(Derby, Kansas)

MM Docket No. 01-44
RM-10022

TO: CHIEF, VLDEO SERVICES DIVISION
MEDIA BUREAU

REPLY COMMENTS

Pappas Telecasting of America ("Pappas"), by and through its attorneys, hereby submits the following Reply Comments in the above-referenced proceeding. Pappas is the original proponent in the instant proceeding, and has requested that the Commission allot DTV Channel 46 at Derby, Kansas.¹ On September 30, 2002, Montgomery Communications, Inc. ("MCI") filed its comments in this proceeding. MCI is the licensee of Station KTMJ-CA, Junction City, Kansas, and has pending a major modification application to move to Channel 46 (BMJPTTL-20000829ATX).

As discussed in more detail below, it is unclear what specific action MCI is requesting from the Commission or Pappas. Regardless of MCI's concerns, though, the proposed allotment of Channel 46 at Derby, Kansas complies with all applicable FCC rules and regulations and

¹ The Commission released a *Further Notice of Proposed Rulemaking* on August 9, 2002. 17 FCC Rcd 15473 (2002). Comments were due to be filed in this proceeding by September 30, 2002, and reply comments were due on October 15, 2002. Both Pappas and MCI filed their respective Comments on September 30, 2002. However, MCI's utilized the incorrect zip code in sending a copy to undersigned counsel. As such, Pappas did not receive a copy of MCI's Comments until October 22, 2002. In light of the concerns raised in MCI's Comments, Pappas contacted counsel for MCI, and was informed that they would not object to the filing of these comments after the October 15, 2002 filing date for Reply Comments. To the extent necessary, and based on this showing of good cause, Pappas requests leave to file the instant Reply Comments.

should be granted. Moreover, even if Pappas maximizes Channel 46 at Derby, Kansas, MCI's proposed facility would not suffer any impermissible interference.

DISCUSSION

MCI apparently is concerned that Pappas "could propose operating facilities which would be predicted to receive interference from the KTMJ-CA application" that exceed the .5% interference tolerance contained in the Commission's rules.' In raising this concern, however, MCI notes that the proposed Facility contained in Pappas's Petition for Rulemaking creates "less than the .5% rounding tolerance...[and that]...this tolerance is not cognizable." *Id.* **As** such, MCI concludes that it "does not oppose the allotment of DTV Channel 46 to Derby, Kansas", so long as Pappas complies with the Commission's rules

To allay the misplaced concerns of MCI, and to ensure the expeditious processing of this rulemaking, Pappas commissioned an additional engineering statement from WES Broadcast Consultants. Attached hereto as Exhibit One, the Engineering statement demonstrates that the current Channel 46 proposal, which already proposes the maximum ERP and an omnidirectional antenna pattern, will cause less than 0.05% interference to the facilities specified in MCI's pending major modification application. More telling, though, is the additional study demonstrating that a maximized Channel 46 at Derby, Kansas, at the maximum tower height of 372.61 meters, still would cause less than 0.5% interference to MCI's major modification application.

Therefore, even if Pappas obtained FCC authority to construct *the* Channel 46 facility at Derby, Kansas with the maximum-allowable effective radiated power, and the maximum-allowable antenna height above average terrain, and Pappas utilized an omnidirectional antenna

Engineering Statement, Comments of Montgomery Communications, Inc., pg. 3

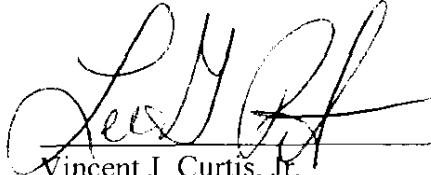
pattern, the proposed Channel 46 facilities at Derby, Kansas would still cause interference to less than 0.4% of the population that would be served by the facilities specified in MCI's major modification application, a level of interference which complies with the Commission's rules.³

CONCLUSION

On the basis of the facts contained herein, Pappas Telecasting of America respectfully requests that the Commission grant the proposed Channel 46 allotment at Derby, Kansas. The proposed facility would comply with all applicable technical and spacing requirements, and the public interest would be served through the introduction of the first local television service at Derby, Kansas.

Respectfully Submitted,

PAPPAS TELECASTING OF AMERICA

By: 

Vincent J. Curtis, Jr.
Lee G. Petro

Its Attorneys

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October 28, 2002

Adding to the speculative nature of the concerns raised by MCI, it should be noted that MCI's major modification application is part of a mutually-exclusive group that is slated for auction at some unknown time in the future. Thus, it is entirely possible that MCI may never operate on Channel 46 at Junction City, and would never suffer the entirely acceptable 0.01% interference from the proposed Channel 46 facility at Derby, Kansas.

EXHIBIT ONE

Engineering Statement of
WES Broadcast Consultants

Exhibit ENC-I
Engineering Statement
Channel 46 DTV Derby, KS
Reply to Rulemaking Comments
By WES Broadcast Consultants

Based on our OET-69 interference analysis of Channel 46 DTV, as shown in Exhibit 1-01-T-69, Channel 46 DTV is projected to cause less than 0.05 % interference to KTMJ-LP Channel 46's application, which translates to 24 persons. Channel 46 DTV's current proposal is already at the maximum Digital ERP and specifies an Omnidirectional pattern, but does not specify the maximum DTV allowable **HAAT**. Exhibit 2-OET-69 demonstrates that even if Channel 46 DTV were to change their HAAT to 372.61 meters, an increase of 124 meters, interference to KTMJ-LP's application would be less than 0.4 % which is still below the de-minimus standard of .5 %, which would result in a loss of 200 persons.

Exhibit 1-OET 69
Ch 46 DTV Derby, **KS**
Reply to Rulemaking Comments
prepared by Wes Broadcast Consultants

Ch 46 DTV RM N IAT 37-54 12 W LON 97-37-06 ERP 1000kW AGL 251m GMSL 429m RCMSL 680m HAAT 248.61m

Callsign	Fac ID	City	Class	Type	ERP	Status	Bearing	Dist	Prol	Clearance	D/U	Zone	Ch#	Adj	Svc Contour	Svc dBu	Int Contour	Int dBu
KTMJ-LP	43645	OGDEN	LPTV	APP	150	Secom	26.65	138.6	-	0	34	0	46	- Co	F(50,50)	74	F(50,10)	40

Population before the addition of Ch 46 to the database not affected by terrain losses: 50,210 persons
Population lost to TX & Terrain before the addition of Ch 46: 0 persons
Population after the loss to TX : 50,210 persons
Population after the addition of Ch 46 to the database: 50,186 persons
Population lost to TX with Ch 46: 24 persons
Percentage of population lost with Ch 46: 0.05 %

Exhibit 2-OET 69
Ch 46 DTV Derby, KS
Reply to Rulemaking Comments
prepared by Wes Broadcast Consultants

Ch 46 DTV RM N LAT 37 54-12 W LON 97 31 06 ERP 1000 kW AGL:375m **GAMSL** 429m RCAMSL 804m HAAT 372.61m

Call Sign	Fac ID	City	Class	Type	ERP	Status	Bearing	Dist	Prot	Clearance	D/U	Zone	Ch#	Adj	Svc Contour	Svc dBu	Int Contour	Int dBu
KTMJ-LP	43645	OGDEN	LPTV	APP	150	Secom	26.65	138.6	-	0	34	0	46	- Co	F(50,50)	74	F(50,10)	40

Population before the addition of Ch 46 to the database not affected by terrain losses: 50,210 persons
Population lost to IX & Terrain before the addition of Ch 46: 0 persons
Population after the loss to IX : 50,210 persons
Population after the addition of Ch 46 to the database: 50,010 persons
Population lost to IX with Ch 46: 200 persons
Percentage of population lost with Ch 46: 0.4 %

WES Broadcast Consultants.

DECLARATION

I, Pete E Myrl Warren, III, declare and state that I am a Certified Broadcast Engineer, by the National Association of Radio and Television Engineers, and my qualifications are a matter *of* record with the Federal Communications Commission, and that I am an engineer in the firm of WES Broadcast Consultants and that the firm has been retained to prepare an engineering statement on behalf of Pappas Telecasting of America Inc..

All facts contained herein are true to my knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. All Exhibits were prepared by me or under my supervision. I declare under penalty of perjury that the foregoing is true and correct.



Pete E Myrl Warren, III

Executed on the 24th day of October 2002

CERTIFICATE OF SERVICE

I, Suzanne Thompson, a secretary with the law firm of Fletcher, Heald & Hildreth, P.L.C., certify that I have this 28th day of October, 2002, sent by first-class U.S. mail, postage-prepaid, or Hand Delivery, as indicated, a copy of the foregoing "Reply Comments":

Ms. Pamela Blumenthal*
Media Bureau
Federal Communications Commission
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Washington, D.C. 20554

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Suzanne Thompson

*By Hand Delivery